

IN THE HOUSE OF REPRESENTATIVES

HOUSE BILL NO. 212

BY EDUCATION COMMITTEE

AN ACT

RELATING TO PUBLIC CHARTER SCHOOLS; AMENDING SECTION 33-5205, IDAHO CODE, TO PROVIDE FOR NOTICE RELATING TO A PETITION FOR A NON-VIRTUAL PUBLIC CHARTER SCHOOL, TO PROVIDE FOR CERTAIN COMMENTS, TO PROVIDE FOR NOTICE TO THE PUBLIC CHARTER SCHOOL COMMISSION AND TO MAKE A TECHNICAL CORRECTION; AND AMENDING SECTION 33-5209, IDAHO CODE, TO PROVIDE FOR A HEARING, TO PROVIDE FOR NOTICE TO THE BOARD OF THE LOCAL SCHOOL DISTRICT AND TO PROVIDE FOR CERTAIN COMMENTS.

Be It Enacted by the Legislature of the State of Idaho:

SECTION 1. That Section 33-5205, Idaho Code, be, and the same is hereby amended to read as follows:

33-5205. PETITION TO ESTABLISH PUBLIC CHARTER SCHOOL. (1) Any group of persons may petition to establish a new public charter school, or to convert an existing traditional public school to a public charter school.

(a) A petition to establish a new public charter school, including a public virtual charter school, shall be signed by not fewer than thirty (30) qualified electors of the attendance area designated in the petition. Proof of elector qualifications shall be provided with the petition.

(b) A petition to establish a new public virtual school must be submitted directly to the public charter school commission. A petition to establish a new public charter school, other than a new public virtual school, shall first be submitted to the local board of trustees in which the public charter school will be located. A petition shall be considered to be received by an authorized chartering entity as of the next scheduled meeting of the authorized chartering entity after submission of the petition.

(c) The board of trustees may either: (i) consider the petition and approve the charter; or (ii) consider the petition and deny the charter; or (iii) refer the petition to the public charter school commission, but such referral shall not be made until the local board has documented its due diligence in considering the petition. Such documentation shall be submitted with the petition to the public charter school commission. If the petitioners and the local board of trustees have not reached mutual agreement on the provisions of the charter, after a reasonable and good faith effort, within sixty (60) days from the date the charter petition is received, the petitioners may withdraw their petition from the local board of trustees and may submit their charter petition to the public charter school commission, provided it is signed by thirty (30) qualified electors as required by subsection (1)(a) of this section. Documentation of the reasonable and good faith effort between the petitioners and the local board of trustees must be submitted with the petition to the public charter school commission.

(d) The public charter school commission may either: (i) consider the petition and approve the charter; or (ii) consider the petition and deny the charter.

(e) A petition to convert an existing traditional public school shall be submitted to the board of trustees of the district in which the school is located for review and approval. The petition shall be signed by not fewer than sixty percent (60%) of the teachers currently employed by the school district at the school to be converted, and by one (1) or more parents or guardians of not fewer than sixty percent (60%) of the students currently attending the school to be converted. Each petition submitted to convert an existing school or to establish a new charter school shall contain a copy of the articles of incorporation and the bylaws of the nonprofit corporation, which shall be deemed incorporated into the petition.

(2) Not later than sixty (60) days after receiving a petition signed by thirty (30) qualified electors as required by subsection (1)(a) of this section, the authorized chartering entity shall hold a public hearing for the purpose of discussing the provisions of the charter, at which time the authorized chartering entity shall consider the merits of the petition and the level of employee and parental support for the petition. In the case of a petition submitted to the public charter school commission, such public hearing must be not later than sixty (60) days after receipt of the petition, which may be extended to ninety (90) days if both parties agree to an extension, ~~and the~~. In the case of a petition for a non-virtual public charter school submitted to the public charter school commission, the board of the district in which the proposed public charter school will be physically located, shall be notified of the hearing in writing, by the public charter school commission, no less than thirty (30) days prior to the public hearing. Such public hearing shall also include any oral or written comments that an authorized representative of the school district in which the proposed public charter school would be physically located may provide regarding the merits of the petition and any potential impacts on the school district. The hearing shall also include any oral or written comments that petitioners may provide regarding any potential impacts on such school district. If the school district chooses not to provide any oral or written comments as provided for in this subsection (2), such school district shall notify the public charter school commission of such decision. Following review of the petition and the public hearing, the authorized chartering entity shall either approve or deny the charter within sixty (60) days after the date of the public hearing, provided however, that the date may be extended by an additional sixty (60) days if the petition fails to contain all of the information required in this section, or if both parties agree to the extension. This public hearing shall be an opportunity for public participation and oral presentation by the public. This hearing is not a contested case hearing as described in chapter 52, title 67, Idaho Code.

(3) An authorized chartering entity may approve a charter under the provisions of this chapter only if it determines that the petition contains the requisite signatures, the information required by subsections (4) and (5) of this section, and additional statements describing all of the following:

(a) The proposed educational program of the public charter school, designed among other things, to identify what it means to be an "educated person" in the twenty-first century, and how learning best occurs. The goals identified in the program shall include how all educational thoroughness standards as defined in section 33-1612, Idaho Code, shall be fulfilled.

(b) The measurable student educational standards identified for use by the public charter school. "Student educational standards" for the purpose of this chapter means the extent to which all students of the public charter school demonstrate they have attained the skills and knowledge specified as goals in the school's educational program.

(c) The method by which student progress in meeting those student educational standards is to be measured.

(d) A provision by which students of the public charter school will be tested with the same standardized tests as other Idaho public school students.

(e) A provision which ensures that the public charter school shall be state accredited as provided by rule of the state board of education.

(f) The governance structure of the public charter school including, but not limited to, the person or entity who shall be legally accountable for the operation of the public charter school, and the process to be followed by the public charter school to ensure parental involvement.

(g) The qualifications to be met by individuals employed by the public charter school. Instructional staff shall be certified teachers as provided by rule of the state board of education.

(h) The procedures that the public charter school will follow to ensure the health and safety of students and staff.

(i) A plan for the requirements of section 33-205, Idaho Code, for the denial of school attendance to any student who is an habitual truant, as defined in section 33-206, Idaho Code, or who is incorrigible, or whose conduct, in the judgment of the board of directors of the public charter school, is such as to be continuously disruptive of school discipline, or of the instructional effectiveness of the school, or whose presence in a public charter school is detrimental to the health and safety of other pupils, or who has been expelled from another school district in this state or any other state.

(j) Admission procedures, including provision for overenrollment. Such admission procedures shall provide that the initial admission procedures for a new public charter school, including provision for overenrollment, will be determined by lottery or other random method, except as otherwise provided herein. If initial capacity is insufficient to enroll all pupils who submit a timely application, then the admission procedures may provide that preference shall be given in the following order: first, to children of founders, provided that this admission preference shall be limited to not more than ten percent (10%) of the capacity of the public charter school; second, to siblings of pupils already selected by the lottery or other random method; and third, an equitable selection process such as by lottery or other random method. If capacity is insufficient to enroll all pupils for subsequent school terms, who submit a timely application, then the admission procedures may provide that preference shall be given in the following order: first, to pupils returning to the public charter school in the second or any subsequent year of its operation; second, to children of founders, provided that this admission preference shall be limited to not more than ten percent (10%) of the capacity of the public charter school; third, to siblings of pupils already enrolled in the public charter school; and fourth, an equitable selection process such as by lottery or other random method. There shall be no carryover from year to year of the list maintained to fill vacancies. A new lottery shall be conducted each year to fill vacancies which become available.

(k) The manner in which an annual audit of the financial and programmatic operations of the public charter school is to be conducted.

(l) The disciplinary procedures that the public charter school will utilize, including the procedure by which students may be suspended, expelled and reenrolled, and the procedures required by section 33-210, Idaho Code.

(m) A provision which ensures that all staff members of the public charter school will be covered by the public employee retirement system, federal social security, unemployment insurance, worker's compensation insurance, and health insurance.

(n) The public school attendance alternative for students residing within the school district who choose not to attend the public charter school.

(o) A description of the transfer rights of any employee choosing to work in a public charter school that is approved by the board of trustees of a school district, and the rights of such employees to return to any noncharter school in the same school district after employment at such charter school.

(p) A provision which ensures that the staff of the public charter school shall be considered a separate unit for purposes of collective bargaining.

(q) The manner by which special education services will be provided to students with disabilities who are eligible pursuant to the federal individuals with disabilities education act, including disciplinary procedures for these students.

(r) A plan for working with parents who have students who are dually enrolled pursuant to section 33-203, Idaho Code.

(s) The process by which the citizens in the area of attendance shall be made aware of the enrollment opportunities of the public charter school.

(t) A proposal for transportation services as required by section 33-5208(4), Idaho Code.

(u) A plan for termination of the charter by the board of directors, to include:

(i) Identification of who is responsible for dissolution of the charter school;

(ii) A description of how payment to creditors will be handled;

(iii) A procedure for transferring all records of students with notice to parents of how to request a transfer of student records to a specific school; and

(iv) A plan for the disposal of the public charter school's assets.

(4) The petitioner shall provide information regarding the proposed operation and potential effects of the public charter school including, but not limited to, the facilities to be utilized by the public charter school, the manner in which administrative services of the public charter school are to be provided and the potential civil liability effects upon the public charter school and upon the authorized chartering entity.

(5) At least one (1) person among a group of petitioners of a prospective public charter school shall attend a public charter school workshop offered by the state department of education. The state department of education shall provide notice of dates and locations when workshops will be held, and shall provide proof of attendance to workshop attendees. Such proof shall be submitted by the petitioners to an authorized chartering entity along with the charter petition.

(5) The public charter school commission may approve a charter for a public virtual school under the provisions of this chapter only if it determines that the petition contains the requirements of subsections (3) and (4) of this section and the additional statements describing the following:

(a) The learning management system by which courses will be delivered;

- (b) The role of the online teacher, including the consistent availability of the teacher to provide guidance around course material, methods of individualized learning in the online course and the means by which student work will be assessed;
- (c) A plan for the provision of professional development specific to the public virtual school environment;
- (d) The means by which public virtual school students will receive appropriate teacher-to-student interaction, including timely, frequent feedback about student progress;
- (e) The means by which the public virtual school will verify student attendance and award course credit. Attendance at public virtual schools shall focus primarily on coursework and activities that are correlated to the Idaho state thoroughness standards;
- (f) A plan for the provision of technical support relevant to the delivery of online courses;
- (g) The means by which the public virtual school will provide opportunity for student-to-student interaction; and
- (h) A plan for ensuring equal access to all students, including the provision of necessary hardware, software and internet connectivity required for participation in online coursework.

SECTION 2. That Section 33-5209, Idaho Code, be, and the same is hereby amended to read as follows:

33-5209. ENFORCEMENT – REVOCATION – APPEAL. (1) An authorized chartering entity shall ensure that all public charter schools for which it approved petitions, or for which it has responsibility, operate in accordance with the approved charter. A public charter school or the authorized chartering entity may enter into negotiations to revise its charter at any time. A public charter school may petition to revise its charter at any time. The authorized chartering entity's review of the revised petition shall be limited in scope solely to the proposed revisions. In those instances where a non-virtual public charter school submits a proposed charter revision to the public charter school commission and such revision includes a proposal to increase such public charter school's approved student enrollment cap by ten percent (10%) or more, the commission shall hold a public hearing on such petition. The public charter school commission shall provide the board of the local school district in which the public charter school is physically located, notice in writing of such hearing, no later than thirty (30) days prior to the hearing. The public hearing shall include any oral or written comments that an authorized representative of the school district in which the public charter school is physically located may provide regarding the impact of the proposed charter revision upon the school district. Such public hearing shall also include any oral or written comments that any petitioner may provide regarding the impact of the proposed charter revision upon such school district.

(2) If the authorized chartering entity has reason to believe that the public charter school has done any of the following, it shall provide the public charter school written notice of the defect and provide a reasonable opportunity to cure the defect:

- (a) Committed a material violation of any condition, standard or procedure set forth in the approved charter;
- (b) Failed to substantially meet any of the student educational standards identified in the approved charter;
- (c) Failed to meet generally accepted accounting standards of fiscal management;

1 (d) Failed to demonstrate fiscal soundness. In order to be fiscally sound, the public  
2 charter school must be:

3 (i) Fiscally stable on a short-term basis, that is, able to service all upcoming  
4 obligations; and

5 (ii) Fiscally sustainable as a going concern, that is, able to reasonably demonstrate  
6 its ability to service any debt and meet its financial obligations for the next fiscal  
7 year;

8 (e) Failed to submit required reports to the authorized chartering entity governing the  
9 charter; or

10 (f) Violated any provision of law.

11 (3) A charter may be revoked by the authorized chartering entity if the public charter  
12 school has failed to cure a defect after receiving reasonable notice and having had a reasonable  
13 opportunity to cure the defect. Revocation may not occur until the public charter school  
14 has been afforded a public hearing and a reasonable opportunity to cure the defect, unless  
15 the authorized chartering entity reasonably determines that the continued operation of the  
16 public charter school presents an imminent public safety issue, in which case the charter may  
17 be revoked immediately. Public hearings shall be conducted by the governing authorized  
18 chartering entity, or such other person or persons appointed by the authorized chartering entity  
19 to conduct public hearings and receive evidence as a contested case in accordance with section  
20 67-5242, Idaho Code. Reasonable notice and opportunity to reply shall include, at a minimum,  
21 written notice setting out the basis for consideration of revocation, a period of not less than  
22 thirty (30) days within which the public charter school can reply in writing, and a public  
23 hearing within thirty (30) days of the receipt of the written reply.

24 (4) A decision to revoke a charter or to deny a revision of a charter may be appealed  
25 directly to the state board of education. With respect to such appeal, the state board of  
26 education shall substantially follow the procedure as provided in section 33-5207(5)(b), Idaho  
27 Code. In the event the state board of education reverses a decision of revocation, the public  
28 charter school subject to such action shall then be placed under the chartering authority of the  
29 commission.